STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Central Illinois Public Service Company (AmerenCIPS) and Union Electric Company (AmerenUE)	:	02-0798
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Proposed general increase in natural gas rates.	:	
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REPLY BRIEF ON EXCEPTIONS OF THE STAFF OF THE ILLINOIS COMMERCE COMMISSION

LINDA M. BUELL
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701
lbuell@icc.state.il.us
(217) 557-1142

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REPLY BRIEF ON EXCEPTIONS OF THE STAFF OF THE ILLINOIS COMMERCE COMMISSION

Pursuant to 83 Ill. Adm. Code 200.830, Staff of the Illinois Commerce Commission ("Staff" and "Commission"), by and through its attorney, hereby files its Reply Brief on Exceptions to the September 10 and 15, 2003 Proposed Order ("Proposed Order") issued in this proceeding. On September 22, 2003, Briefs on Exceptions ("BOE") were filed by Central Illinois Public Service Company ("AmerenCIPS" or "CIPS") and Union Electric Company ("AmerenUE" or "UE") (jointly, "Ameren", "Company" or "Companies"), Business Energy Alliance and Resources ("BEAR"), the Citizens Utility Board, the Attorney General, on behalf of the People of the

State of Illinois ("AG") and Staff. Staff replies to certain of the filed exceptions in the order in which the issues appear in the Proposed Order.

I. POST-TEST YEAR CAPITAL ADDITIONS

A. The Proposed Order Provides an Allowance for AmerenUE's Post-Test Year Capital Additions

Ameren appears to misunderstand the basis for the AmerenUE adjustment for post-test year plant additions proposed by the AG and adopted in the Proposed Order. (Ameren BOE, pp. 5-6.) While the language in the Commission Conclusion section explicitly states "the AG's proposal to eliminate the post test year capital additions is adopted" (Proposed Order, p. 10), Appendix B, Schedule 4, column (B) clearly reflects the adjustment proposed by the AG (AG Initial Brief, p. 4), which does provide an allowance for post-test year capital additions.

The AG found that over the last five years, net plant in service for AmerenUE decreased slightly while remaining almost level for AmerenCIPS. (Id.) The AG further projected that the accumulated depreciation will have grown by $8,263,000 during the 12 months following the test year, which will offset the post-test year plant additions of $2,291,000 proposed by AmerenCIPS. (Id., p. 3.) In its analysis of AmerenUE's net plant, the AG found that the December 31, 2002 net plant in service was $1,473,000 less than the pro forma net plant in service proposed for AmerenUE. (Id., p. 4.) While AmerenUE proposed a pro forma net plant addition of $2,258,000 ($2,314,000 gross plant less $56,000 accumulated depreciation), the AG's proposal reduced that adjustment by $1,473,000, thereby allowing $785,000 in net post-test year capital additions.

B. The Proposed Order Does Not Reflect the Impact on Depreciation Expense Resulting from the Adjustment to Post-Test Year Capital Additions

The AG correctly points out that the adjustments for post-test year capital additions adopted in the Proposed Order would impact depreciation expense for both Companies. (AG BOE, p. 1.) The Companies proposed pro forma adjustments to depreciation expense related to the post-test year capital additions in their initial filings. (AmerenCIPS Schedule C-3.19; AmerenUE Schedule C-3.16.) Since the amounts of post-test year capital additions adopted by the Proposed Order were different than those proposed by the Companies, it is necessary to reflect those adjustments in the amounts of depreciation expense approved. The AG reflected the appropriate adjustments to depreciation expense in its Direct Testimony for both CIPS and UE. (AG Exhibit 1.0P-CIPS, Schedule C; AG Exhibit 1.0P-UE, Schedule C.)

C. Staff's Proposed Replacement Language

Staff proposes the following language changes to pages 8-10 of the Proposed Order to clarify the positions of both Staff and the AG and to correctly state the Commission's Conclusion to reflect the adoption of the AG's positions as reflected in Appendices A and B:

b. Staff's Position

> The Companies propose pro forma adjustments to plant in service for both CIPS and UE for known and measurable changes to be completed within one year of the filing of tariffs in accordance with 83 Ill. Adm. Code 285.150. ~~Staff ultimately concurs with Mr. Effron's opposition to the pro forma adjustments. In accepting the AG's arguments, Staff opposes in their entirety Ameren's proposed adjustments to increase rate base for post-test year capital additions.~~ In its Reply Brief, Staff concurred~~s~~ with Mr. Effron that, while gross plant has increased, net plant in service has decreased

during the period 1998 through 2001. Staff characterizes Ameren's rebuttal testimony as portraying Mr. Effron's rejection of the adjustments as an attempt to treat Ameren's historical test year as a future test year. Staff, however, regards Ameren's rationale in support of the adjustments as insufficient in light of the declining balance of net plant in service.

According to Staff, while Part 285 allows the Companies to propose such pro forma adjustments where they are known and measurable, it does not guarantee that the Companies will be allowed to reflect such adjustments in base rates. The Companies must justify the inclusion of the pro forma adjustments in rates, and Staff asserts that ~~they~~ <u>the Companies</u> have not done so sufficiently. Staff believes that it is illogical to increase rate base for post-test year pro forma plant additions at a time when the Companies have shown a declining rate base trend, based on their own evidence.

Therefore, Staff concurs with the conclusion reached by the AG in its Initial Brief regarding Mr. Effron's proposed adjustment for the removal of post-test year pro forma plant additions<u> for AmerenCIPS and limiting the post-test year capital additions for AmerenUE to those amounts represented by December 31, 2002 balances</u>.

c. AG's Position

The AG argues that, because net plant in service has decreased slightly over the past five years for UE and has remained almost level for CIPS, allowing the post-test year additions without also adjusting the accumulated depreciation reserve would distort the revenue requirements for the Companies. Accordingly, the AG advocates disallowing the Companies' proposed post-test year capital additions altogether, or alternatively adjusting the Companies' proposal to account for increases in accumulated depreciation after the end of the test year.

The AG states that in the case of CIPS and UE, post-test year increases in plant were historically offset by increases in depreciation reserve for both Companies, and that, based on the stable or slightly declining figures of net plant in service, such offsetting should be recognized here. ~~Furthermore, according to the AG, the growth in~~

~~accumulated depreciation associated with embedded, or existing, plant in service will offset the increase in plant in service identified by the Company.~~ The AG found that over the last 5 years, net plant in service for AmerenUE had decreased slightly while remaining almost level for AmerenCIPS. The AG further projects that the accumulated depreciation will have grown by $8,263,000 during the 12 months following the test year, which will surely offset the post-test year plant additions of $2,291,000 proposed by AmerenCIPS. In its analysis of AmerenUE net plant, the AG found that the December 31, 2002 net plant in service was $1,473,000 less than the pro forma net plant in service proposed for AmerenUE. While AmerenUE proposed a pro forma net plant addition of $2,3258,000 ($2,314,000 gross plant less $56,000 accumulated depreciation), the AG's proposal reduces that adjustment by $1,473,000, thereby allowing $785,000 in net post-test year capital additions.

The AG views Ameren's inclusion of gross plant in service rather than net plant in service as a selective application of the rule that permits post test year adjustments, Section 285.150(e). The AG complains that gross plant in service figures presented by the Companies do not account for the significant percentage of plant in service offset by depreciation each year, and thereby present an inaccurate determination of rate base. According to the AG, Section 285.150(e) requires that adjustments for known and measurable changes be comprehensive and include all effects of the change.

That Section states, in relevant part, that:

A utility may propose pro forma adjustments (estimated or calculated adjustments made in the same context and format that the affected information was provided) to the selected Historical or Current Test year for all known and measurable changes in the operating results of the Test Year. These adjustments shall reflect significant changes (changes affecting the ratepayers) in plant investment, operating revenues, expenses and capital structure where such changes occurred during the selected Historical or Current Test Year or are reasonably certain to occur subsequent to the selected Test Year within 12 months from the filing date of the tariffs and the amount of the changes are determinable.

83 Ill. Adm. Code 285.150(e) (emphasis added).

The AG views the rule as requiring that all effects of a known and measurable change on all aspects of the revenue requirement be considered, and asserts that Ameren is attempting to adjust for the increase in plant in service and rate base, while ignoring the effect of accumulated depreciation and its ultimate impact on the Company's revenue requirement.

Mr. Effron maintains that the balance of accumulated depreciation is known and measurable, and that by December 31, 2002, the accumulated reserve for depreciation will offset the effect of any post-test year growth in plant in service. The AG interprets Ameren to argue that recognizing the effect of accumulated depreciation on net plant would turn a historic test year into a future test year. The AG counters this argument with the principle that any post-test year adjustment must consider all effects of the adjustment to be consistent with the principles of fairness and completeness that underlie the test year rule.

The AG also looks to Docket 01-0432 for support, averring that where the utility requested an adjustment for "known and measurable" changes to rate base, it specifically included the effect of accumulated depreciation and accumulated deferred income taxes on the plant addition adjustment. (Order, 01-0432, at 18-21, March 28, 2002)

For these reasons, the AG advocates ~~either~~ eliminating the post-test year capital additions proposed by AmerenCIPS.~~the Companies~~, ~~or reducing them to account for any offsetting increases in accumulated depreciation.~~ The AG's ~~alternate~~ recommendation would completely eliminate the proposed adjustment of $2,291,000 sought by CIPS, because it is fully offset by an $8,263,000 increase in the accumulated reserve for depreciation and amortization.

For UE, the AG's ~~alternative~~ recommendation would reduce the adjustment proposed by the Company from $2,258,000 to $785,000. This adjustment recognizes that net plant in service as of December 31, 2002 did increase by $785,000 over June 30, 2002 balances.~~ the AG's estimated $53,000 increase in accumulated depreciation and $1,420,000 pro forma reduction in plant in service.~~

Ameren proposed pro forma adjustments to depreciation expense related to the post-test year capital additions included in its initial filings. Due to the above recommended adjustments to post-test year capital additions, it is also necessary to reflect those adjustments in the amounts of depreciation expense calculated and approved. The resulting decreases to depreciation expense are $112,000 for AmerenCIPS and $34,000 for AmerenUE.

d. Commission Conclusion

The Commission generally concurs with Ameren that, consistent with the Commission's test year rules, a utility has the right to propose post-test year pro forma capital additions to a historical test year. Nevertheless, the Commission has an obligation to evaluate any such proposed pro forma capital addition to ensure consistency with the principle underlying the test year. The regulatory basis for adopting a test year is to ensure that the rates established are reflective of costs and revenues that may be expected for the period during which such rates are in place.

While Ameren has the right to propose post-test year pro forma capital additions to a historical test year, the pro forma adjustments should not be adopted if they conflict with the test year principle. The Commission finds that where historic net plant in service is either declining or relatively static, as in these cases, post-test year pro forma increases to plant in service should undergo further scrutiny ~~not be adopted~~.

In a situation where there is a demonstrated trend of significant increases of net plant in service, the Commission might be inclined to find that post test year capital additions should be reflected in rate base. Similarly, if a utility demonstrated significant post test year capital additions that were not largely or entirely off-set by increases in accumulated depreciation, the Commission might be inclined to allow post test year capital additions to rate base. While either of those situations may have been present in Docket 01-0423 or Docket 01-0432, cited by the parties, the record is clear that neither of these situations is present here for AmerenCIPS. However, AmerenUE does have significant post-test year capital additions that are not entirely off-set by increases in accumulated depreciation. Therefore, disallowing all post-test year capital additions would not have the desired effect on AmerenUE's net plant.

> The Commission finds that Ameren's proposed post-test year pro forma capital additions to the historical test year, if adopted, would result in a mismatch of costs and revenues for AmerenCIPS that may be expected for the period during which rates are in place. Due to the circumstances present here it would result in an overstatement of rate base. Accordingly, the AG's proposal to eliminate the post test year capital additions and associated reduction in depreciation expense of $112,000 is adopted for AmerenCIPS.
>
> For AmerenUE, the AG's recommendation would reduce the adjustment proposed by the Company from $2,258,000 to $785,000 and more accurately represent the matching of costs and revenues that may be expected for the period during which the rates are in place. Accordingly, the AG's proposal to limit post test year capital additions to those reflected in December 31, 2002 balances, including reduction of depreciation expense by $34,000, is adopted for AmerenUE.

D. Appendix B Does Not Accurately Reflect the Adjustment Currently Recommended in the Proposed Order

If the intent of the Proposed Order is to eliminate all post-test year capital additions for both Companies as stated in the Commission Conclusion section, Appendix B, Schedule 4, Column B, lines 1 and 2 should be corrected to reflect those eliminations for AmerenUE. The correct adjustment would be a ($2,314) reduction to plant in service and a ($56) reduction for accumulated depreciation as presented on AmerenUE's Schedules B-2.1 and B-3.1, respectively. In addition, the reduction of the entire depreciation expense associated with the post-test year capital additions, $112,000 for AmerenCIPS and $56,000 for AmerenUE as proposed on Schedules C-3 of the original filing, would also have to be reflected in Appendices A and B.

If however, the intent of the Proposed Order is to adopt AG witness Effron's position, then only the changes to reflect the depreciation expense adjustments proposed by the AG that are discussed above need to be made to the schedules that develop the revenue requirement. The proposed language changes above would be sufficient to clarify the Proposed Order's Commission Conclusion section regarding post-test year capital additions.

II. CASH WORKING CAPITAL ALLOWANCE

For all reasons cited in Staff's testimony, Initial and Reply Briefs, and Brief on Exceptions, Staff maintains that the amount of Cash Working Capital ("CWC") to be included in rate base should be set at zero since the Companies' analyses did not support the amount of CWC requested.

Staff agrees with Ameren's BOE that the wrong adjustment to exclude a separate PGA revenue lag is reflected in Appendices A and B of the Proposed Order. (Ameren BOE, p. 1.) However, the amount cited in Ameren's BOE for AmerenCIPS ($3.1 million) has been rounded to the nearest $100,000. Should the conclusion in the Proposed Order be retained, the amounts presented in Staff's BOE on page 8, $(3,093) for AmerenCIPS and $(326) for AmerenUE, are the correct adjustment amounts.

III. ACCUMULATED DEFERRED INCOME TAXES

The AG's BOE criticizes the Proposed Order for allowing all accumulated deferred income taxes ("ADIT") components in rate base. (AG BOE, p. 3.) The Commission's conclusion on this issue is consistent with prior Commission Orders cited in the record. (Proposed Order, pp. 22-23.) Therefore, the AG's replacement language regarding ADIT should not be accepted.

IV. AMORTIZATION OF VRP COSTS

The AG is correct in taking exception to the Proposed Order's recommendation that voluntary retirement program ("VRP") costs be amortized over five years instead of ten years because the ten-year amortization period proposed by the AG is beyond the expected life of the rates set in these proceedings. (AG BOE, pp. 5-6.) The goal in setting an amortization period for the VRP costs is to match as closely as possible the time period over which the VRP benefits will be realized. Based on the testimony of the Companies' actuary, C. Kenneth Vogl, that the employees who took the VRP "retired at a much younger age than we had assumed and, therefore, the liability for those individuals is much greater" (Tr., p. 103), it is reasonable to assume that the ten-year amortization period for VRP costs proposed by the AG more closely matches the time period over which the VRP benefits that gave rise to the VRP costs will be realized than does the five-year amortization period recommended in the Proposed Order. Therefore, Staff recommends that the Commission adopt a ten-year amortization period for the VRP costs and replace the Commission Conclusion on page 41 of the Proposed Order with the replacement language proposed by the AG on page 6 of its BOE.

V. PENSION AND BENEFITS, CAPITALIZATION RATIOS

Ameren takes issue with the Proposed Order's rejection of its 2003 budget amounts for pension and benefits expense in favor of the amounts determined by its 2002 actuarial report. (Ameren BOE, p. 6.) The Companies defend the veracity of the 2003 budget figures on the basis that they were prepared by the same actuaries who also prepared the 2002 actuarial report. (Id., p. 7.) Ameren appears to overlook the fact that budget numbers are inherently estimated numbers, regardless of how competent the parties are who develop them, whereas amounts based on the actuarial report are grounded in fact. There is nothing in the record that updates the 2003 budget numbers included in the Companies' filings to reflect known and verifiable changes that occurred after the 2002 actuarial report was prepared. Therefore, the Proposed Order is correct in adopting pension and benefit expense based on the 2002 actuarial report.

The worksheets provided by the AG to show the calculations of AmerenCIPS' and AmerenUE's pension and OPEB (benefit) expense adjustments using the capitalization ratios adopted in the Proposed Order are incomplete. (AG BOE, pp. 12-13.) The pro forma pension expense per the respective Company does not reflect the fact that the Companies accepted Staff adjustments to disallow pension expense related to a supplemental retirement plan and survivor's benefits under the deferred compensation plan. (Staff BOE, p. 20.) Correction of this oversight results in a $50,000 reduction to the AG's pension expense adjustment for CIPS and an $11,000 reduction for UE. Per the language in the Proposed Order, the $(1,444,000) figure presented on AmerenCIPS Appendix A, Schedule 2, Column F, should be $(1,549,000) and the $(309,000) figure presented on AmerenUE Appendix B, Schedule 2, Column F, should be $(330,000). (Staff BOE, Schedule 1.)

VI. INCENTIVE COMPENSATION PLAN EXPENSES

The Proposed Order correctly adopts the recommendation of Staff and the AG to disallow recovery of incentive compensation costs through base rates. (Proposed Order, p. 48.) Ameren disagrees with the position, asserting that it is being penalized for "employing its compensation structure in a way to maximize performance." (Ameren BOE, p. 11.) In reality, it is the ratepayer who would be penalized if incentive compensation costs were allowed in base rates. Ratepayers would provide funding even if Ameren incurred no costs because a threshold level of earnings per share ("EPS") is not achieved, or if the Company decided to discontinue or suspend a plan, as it did for the bargaining unit employees for 2003. (Staff Initial Brief, pp. 45-46.) Because the most significant influence on the payment of incentives is whether or not Ameren achieves a certain financial goal, which primarily benefits shareholders, shareholders should bear the cost of paying incentive compensation. (Id., pp. 44-45.)

VII. METER READING EXPENSE, NON-LABOR

Staff disagrees with the AG's exceptions to the Proposed Order's rejection of its proposal to reduce UE's non-labor meter reading expense. (AG BOE, pp. 6-7.) In particular, Staff notes that Ameren stated that since 2001 its automated meter reading ("AMR") expenses have been relatively constant due to those costs being fixed by contract with CellNet and that any costs associated with transitioning to the new AMR system were completed prior to the test year. (AmerenCIPS/UE Exhibit No. 23.0, p. 8.) Further, Ameren indicated that the AMR expense it incurred during the test year was $180,350 (AmerenCIPS/UE Exhibit No. 27.0, p. 12), which equals the non-payroll meter reading expense requested by AmerenUE (AmerenUE Exhibit No. 27.7, line 52). Finally, Staff withdrew its adjustment to remove all of the AMR expenses after Ameren provided additional data request responses and other information in its surrebuttal testimony to support its decision to choose the AMR system. (Tr., pp. 519-520.) Therefore, Staff concludes the AMR expense is a valid on-going cost that Ameren will continue to experience in the future and that the Proposed Order's conclusion is correct.

VIII. ALLOCATION OF RATE CASE EXPENSE

The AG takes exception to language in the Proposed Order that adopts the Companies' proposal to allocate rate case expenses equally between CIPS and UE. The AG believes that UE customers will be burdened with a disproportionate share of rate case expenses under this allocation method. (AG BOE, p. 8.) However, it is not clear what allocation method the AG is proposing as an alternative to the equal sharing of costs. In its Initial Brief, on page 26, the AG recommends that rate case expenses be allocated based on the size of each company, but in its BOE, it recommends that the Commission accept a revenue-based allocation of rate case expense. (Id., p. 9). Because costs incurred to prepare and file the rate cases in this consolidated proceeding were not materially affected by the size of each company (Staff Initial Brief, p. 51), Staff agrees with the Proposed Order's conclusion that the equal sharing of costs does not impose any more cost on UE customers than if UE had filed its rate case without CIPS. (Proposed Order, p. 52.) Therefore, the 50/50 allocation of rate case expenses as proposed by the Companies is reasonable and is properly adopted by the Commission. (Id.)

IX. COST OF CAPITAL

In its BOE, the Company criticizes the Proposed Order's conclusions regarding AmerenUE's cost of common equity and proposes changes for incorporation into the Post Exceptions Proposed Order. The Company argues that it is inappropriate to adjust the Gas Sample's cost of equity downward by 25 basis points to derive AmerenUE's cost of equity, given the Commission's decision to adjust AmerenUE's capital structure. (Ameren BOE, pp. 9-10.) The record in this proceeding does not support the

Company's exception to the Proposed Order and the Company's proposed changes should not be accepted.

The Company's exception to the Proposed Order's 25 basis point adjustment for AmerenUE's cost of equity is essentially the same "double-counting" argument the Company made and Staff addressed previously. (AmerenCIPS/UE Exhibit No. 13.0, pp. 7-8; Revised ICC Staff Exhibit 13.0, pp. 10-15.) Staff disagrees with the Company's premise that the imputed capital structure adopted in the Proposed Order is not meaningfully stronger than that of the Gas Sample. The Proposed Order notes that the average total debt ratio for the Gas Sample is approximately 57%, while the total debt ratio for AmerenUE's imputed capital structure is only 45%. (Proposed Order, p. 87.) S&P's total debt ratio target range for an AA rating is only 5.5 percentage points lower than that for an A rating. (ICC Staff Exhibit 6.0, p. 12.) Given that S&P considers a 5.5 percentage point difference to be significant enough to differentiate between AA and A ratings, a 12 percentage point difference in debt ratios is clearly a significant difference. The fact is, the capital structure the Proposed Order adopted for AmerenUE is indicative of a solid AA rating, while the Gas Sample has an average credit rating of A. Since the credit rating of the Gas Sample, from which AmerenUE's cost of equity was derived, has a significantly higher level of risk than that implied by AmerenUE's imputed capital structure, a downward adjustment to the Gas Sample's cost of equity is necessary for a fair assessment of AmerenUE's cost of equity. The 25 basis point adjustment reflects the spread between A-rated and AA-rated long-term utility debt yields. Without the capital structure adjustment, a larger cost of equity adjustment would be necessary, or vice versa. Thus, the Proposed Order is correct in adopting a 25 basis point cost of equity adjustment in addition to the capital structure adjustment; and the Company's proposed changes should be rejected.

In addition, Staff notes that the Company's BOE contains statements that are either incorrect or unclear. First, the Company's BOE incorrectly paraphrases the Proposed Order as stating that "the Commission cannot conclude that the hypothetical common equity structure adopted for AmerenUE *is not* comparable to the average common equity ratio of the Gas Sample." (*emphasis added*.) (Ameren BOE, p. 9.) The Proposed Order clearly indicates that the Commission cannot conclude that AmerenUE's common equity ratio *is* comparable to that of the Gas Sample. Second, the Company's argument that the Proposed Order penalizes AmerenUE "a second time because the hypothetical number -- which is within a reasonable range -- is not the midpoint of the reasonable range" is confused. The cost of equity adjustment was not based on the difference between the common equity ratio imputed to AmerenUE and the midpoint of a range of reasonableness, which was never defined in the record. Rather, the cost of equity adjustment was based on the difference between the risk level of an AA-rated utility, as implied by the imputed capital structure Mr. McNally recommended for AmerenUE, and the risk level of the Gas Sample, which has an average credit rating of A. That is, the capital structure adjustment establishes a reasonable capital structure, but one that does not match the risk level of the sample from which AmerenUE's cost of equity was derived, necessitating a 25 basis point cost of equity adjustment. Finally, Staff believes the revised language proposed on page 10 of the Company's BOE is intended to replace the second full paragraph on page 87 of the Proposed Order, rather than the first full paragraph, as the Company's BOE states.

X. RIDER T: DELIVERY REQUIREMENTS, STORAGE LIMITATIONS AND CASH-OUT MECHANISM

The Proposed Order limits a transportation customer's storage withdrawal to 20% of the customer's usage on any given day. (Proposed Order, p. 129.) BEAR opposes the 20% daily storage withdrawal limitation adopted in the Proposed Order. In opposition to the 20% daily storage withdrawal limitation, BEAR argues that transportation customers "...should have the ability to use their storage gas in a manner that makes both economic and operational sense." (BEAR BOE, p. 3.) BEAR states that transportation customers may need to withdraw more than the 20% daily storage withdrawal limit in order to avoid penalty charges for excess storage gas. (Id.) For this reason, BEAR recommends eliminating the 20% withdrawal limitation. BEAR also opposes the requirement for transportation customers to meet at least 80% of their daily usage through deliveries.

As an alternative to eliminating the 20% limitation on storage withdrawals, BEAR recommends requiring the Company to purchase excess storage gas from transportation customers at a market-based rate. (Id.) BEAR argues that sales customers would not be harmed if the Company were required to purchase excess storage gas because such purchases would merely displace other market-based gas purchases that the Company flows through its PGA. (Id.)

Staff witness Iannello, like BEAR witness Smith, initially argued that the rules governing transportation customer deliveries and bank use were too strict relative to the storage costs that the Company originally proposed to allocate to transportation customers. Mr. Iannello recommended various adjustments to the Company's storage use and delivery requirements. In response to concerns over the limitations on deliveries and storage use in Rider T, the Company proposed to develop a separate set of delivery rates for transportation customers and allocate fewer storage costs to transportation customers. This reallocation presumably reflects the inferior access to storage that transportation customers receive relative to sales customers. Although concerned that transportation customers may want greater flexibility to meet their daily demand through a combination of deliveries and Bank withdrawals and may be willing to pay for such flexibility, Mr. Iannello accepted the Company's proposed reallocation of storage costs as an alternative to his revised delivery requirements and Bank withdrawal limitations. (ICC Staff Exhibit 12.0, p. 10.)

While Staff continues to be concerned with the restrictions placed on deliveries and storage use, it is improper to recommend eliminating the 20% storage withdrawal limitation and the 80% delivery requirement without simultaneously adjusting the storage-related costs that are allocated to transportation customers. BEAR's recommendation to eliminate the 80% delivery requirement and 20% storage withdrawal limitation ignores the Company's reallocation of storage-related costs from transportation customers to sales customers and should be rejected.

Staff continues to be concerned that the Company's proposed limitations on deliveries and Bank withdrawals discriminate against customers with loads that fluctuate unpredictably on a day-to-day basis, whereas the Company's sales service tariffs do not discriminate against such customers. However, Staff's concerns are allayed by the fact that, under the rates approved in the Proposed Order, transportation customers will pay less for storage, and suppliers will have the opportunity to group customer accounts to ease the burden of meeting the Company's more strict delivery requirements and withdrawal limits. If transportation customers find that the Company's proposed delivery requirements and storage limitations are not workable and that the introduction of a group balancing service is ineffective, the Commission may need to revisit the terms of the Company's Rider T and the Company's proposed storage cost allocation in the future. (Id., p. 11.)

With respect to BEAR's proposal to require the Company to purchase storage gas from transportation customers at a market rate, Staff agrees that such a proposal would likely have a negligible impact on the PGA. However, the Company's tariff already allows customers to sell gas to other customers on the Company's system, thereby providing transportation customers with some ability to avoid excess storage penalties in the event the customer over-delivers to its account.

XI. CONCLUSION

For the reasons set forth, Staff respectfully requests that the Commission approve the Proposed Order issued in this proceeding with the modifications contained herein and in Staff's September 22, 2003 Brief on Exceptions.

Respectfully submitted,

LINDA M. BUELL

Counsel for the Staff of the Illinois
Commerce Commission

LINDA M. BUELL
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701
lbuell@icc.state.il.us
(217) 557-1142

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